



CITY OF IOWA CITY MEMORANDUM

Date: June 17, 2021
To: Iowa City Landlords and Rental Property Managers
From: Kristin Watson, Human Rights Investigator
Re: Pretext as an Issue in Eviction

As many of us return to normalcy, others are struggling with the ripple effects of the pandemic. The Pew Research Center recently found¹ that roughly 9.6 million U.S. workers lost their jobs during the first three quarters of 2020, with young adults and women suffering more losses than older workers and men. Many of these workers have not been able to fully pay their rent. The CDC's moratorium on eviction for non-payment expires June 30th, at which point thousands of renters in Iowa will remain delinquent in rent payments.

Before evicting a tenant for non-payment, consider possible discriminatory implications. Iowa Legal Aid has found eviction disproportionately affects women, people with disabilities, and people of color. For example, despite constituting only 17% of Johnson County's population,² a stunning 67% of Legal Aid's current eviction clients in Johnson County are people of color. Statewide, 71% of Legal Aid's eviction intakes between 2015 and 2020 involved women as the primary clients.³ All of Legal Aid's clients are in precarious financial positions—one cannot earn more than 125% of the federal poverty level to be eligible for Legal Aid's assistance.⁴ Therefore, landlords who rush to evict may face discrimination complaints alleging pretext.

The legal meaning of pretext is the same as the common one: substituting an excuse for a true motivation. While non-payment of rent may be the stated reason for an eviction, a tenant may still file a discrimination complaint if they⁵ suspect the true reason for the eviction is their race, sex, national origin, disability status, public assistance source of income, or other protected class.

One area of particular concern is “public assistance source of income” (PASI). On April 30, 2021, Governor Reynolds signed a new law⁶ prohibiting cities from requiring landlords to accept qualified tenants with housing choice vouchers (HCVs), commonly known as “Section 8.” Cities which already have ordinances protecting renters with HCVs, including Iowa City, may continue to enforce those ordinances until January 1, 2023. In addition, “public assistance source of income” is much broader than HCVs; it includes both income and “support” derived from any tax-supported Federal, State, or

¹ <https://www.pewresearch.org/fact-tank/2021/04/15/fewer-jobs-have-been-lost-in-the-eu-than-in-the-u-s-during-the-covid-19-downturn/>

² <https://www.census.gov/quickfacts/fact/table/johnsoncountyiowa/PST045219>

³ The Office of Equity and Human Rights thanks Ericka Petersen, Assistant Litigation Director, for sharing Iowa Legal Aid's internal research.

⁴ <https://www.iowalegalaid.org/resource/frequently-asked-questions-about-iowa-legal-aid>

⁵ It is the policy of Equity and Human Rights to use “they, them, their” as singular, gender-neutral pronouns.

⁶ <https://www.desmoinesregister.com/story/news/politics/2021/04/30/gov-kim-reynolds-signs-bill-letting-landlords-reject-section-8-housing-hud-tenants/4748580001/>

local funds.⁷ This includes veteran's benefits, Social Security, supplemental security income, food assistance, and many other types of relief.

PASI also includes "rent subsidy programs." COVID-related rent subsidy programs have gotten a slow start in Iowa, but are now beginning to generate funds. These programs are covered under the Iowa City PASI ordinance. Many COVID-related relief programs require landlord participation to complete paperwork. Refusal to complete the landlord's portion of paperwork necessary to receive COVID relief funds could lead to a complaint of discrimination.

This memorandum is meant to provide general guidance regarding this subject. If you have questions regarding topics addressed in this memorandum or your rights and responsibilities in general, please call the office at 319-356-5015 or 319-356-5022. For specific legal questions, please consult your attorney.

The Office of Equity and Human Rights provides educational memos to landlords on areas of discrimination to assist in providing good outcomes for both landlords and tenants. Please send fair housing topics you would like to receive guidance on to humanrights@iowa-city.org.

⁷ https://codelibrary.amlegal.com/codes/iowacityia/latest/iowacity_ia/0-0-0-543